

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1157*

Finance Committee Substitute Adopted 5/26/93

Third Edition Engrossed 6/3/93

House Committee Substitute Favorable 7/19/93

Short Title: Economic Dev. Financing Bonds.

(Public)

Sponsors:

Referred to:

May 13, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION TO PERMIT CITIES AND COUNTIES
2 TO ISSUE BONDS TO FINANCE THE PUBLIC PORTION OF ECONOMIC
3 DEVELOPMENT PROJECTS AND TO AUTHORIZE COUNTIES AND CITIES
4 TO ACCEPT AS CONSIDERATION FOR A CONVEYANCE OR LEASE OF
5 PROPERTY TO A PRIVATE PARTY THE AMOUNT OF INCREASED TAX
6 REVENUE EXPECTED TO BE GENERATED BY THE IMPROVEMENTS TO
7 BE CONSTRUCTED ON THE PROPERTY.
8

9 Whereas, the State of North Carolina and local governments in North
10 Carolina are and should be actively engaged in economic development efforts to attract
11 and stimulate private sector job creation and capital investors in their areas; and

12 Whereas, over 40 other states and local governments in other states are
13 authorized to utilize a wide variety of incentives, including, but not limited to, economic
14 development financing, to attract private sector economic development; and

15 Whereas, other states and local governments in other states have been
16 successful in attracting private sector job creation and capital investment to their areas
17 through incentive packages which have included the provision of infrastructure
18 improvements financed through the issuance of economic development bonds; and

19 Whereas, economically distressed areas, particularly in rural areas of North
20 Carolina, could utilize economic development bonds to attract new industry to their
21 areas; and

1 (5), or (6). For the purpose of this Article, the term 'capital costs' as defined in G.S.
2 159-48(h) also includes (i) interest on the bonds being issued or on notes issued in
3 anticipation of the bonds during construction and for a period not exceeding four years
4 after the estimated date of completion of construction and (ii) the establishment of debt
5 service reserves. The proceeds of the bonds may be used either in a development
6 financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use
7 directly benefits private development forecast by the development financing plan for the
8 district, outside the development financing district. The proceeds may be used only in
9 or to benefit private development in that development financing district the revenue
10 increment of which is pledged as security for the bonds. This subsection does not
11 prohibit the use of proceeds to defray the cost of providing water and sewer utilities to a
12 private development in an economic development financing district.

13 (b) Subject to agreement with the holders of its economic development financing
14 bonds and the limitation on duration of development financing districts set out in this
15 Article, each unit of local government may issue additional economic development
16 financing bonds and may issue bonds to refund any outstanding economic development
17 financing bonds at any time before the final maturity of the bonds to be refunded.
18 General obligation bonds issued to refund outstanding economic development financing
19 bonds shall be issued under the Local Government Bond Act, Article 4 of this Chapter.
20 Revenue bonds issued to refund outstanding economic development financing bonds
21 shall be issued under the State and Local Government Revenue Bond Act, Article 5 of
22 this Chapter.

23 Economic development financing bonds may be issued partly for the purpose of
24 refunding outstanding economic development financing bonds and partly for any other
25 purpose under this Article. Economic development financing bonds issued to refund
26 outstanding economic development financing bonds shall be issued under this Article
27 and not under Article 4 of this Chapter.

28 (c) If the private economic development project to be benefited by proposed
29 economic development financing bonds affects tax revenues in more than one unit of
30 local government and more than one affected unit of local government wishes to
31 provide assistance to the private economic development project by issuing economic
32 development financing bonds, then those units may enter into an interlocal agreement
33 pursuant to Article 20 of Chapter 160A of the General Statutes for the purpose of
34 issuing the bonds. The agreement may include a provision that a unit may pledge all or
35 any part of the taxes received or to be received on the incremental valuation accruing to
36 the development financing district to the repayment of bonds issued by another unit that
37 is a party to the interlocal agreement.

38 **"§ 159-104. Application to Commission for approval of economic development**
39 **financing bond issue; preliminary conference; acceptance of application.**

40 A unit of local government may not issue economic development financing bonds
41 under this Article unless the issue is approved by the Local Government Commission.
42 The governing body of the issuing unit shall file with the secretary of the Commission
43 an application for Commission approval of the issue. At the time of application, the
44 governing body shall publish a public notice of the application in a newspaper of

1 general circulation in the unit of local government. The application shall include
2 statements of facts and documents concerning the proposed bonds, development
3 financing district, and development financing plan and the financial condition of the
4 unit, required by the secretary. The Commission may prescribe the form of the
5 application.

6 Before accepting the application, the secretary may require the governing body or its
7 representatives to attend a preliminary conference in order to discuss informally the
8 proposed issue, district, and plan and the timing of the steps to be taken in issuing the
9 bonds. The development financing district need not be defined and the development
10 financing plan need not be adopted by the governing body at the time it files the
11 application with the secretary. However, before the Commission may enter its order
12 approving the bonds, the governing body must define the district and adopt the plan.

13 After an application in proper form and order has been filed, and after a preliminary
14 conference if one is required, the secretary shall notify the unit in writing that the
15 application has been filed and accepted for submission to the Commission. The
16 secretary's statement is conclusive evidence that the unit has complied with this section.

17 **§ 159-105. Approval of application by Commission.**

18 (a) In determining whether a proposed economic development financing bond
19 issue shall be approved, the Commission may inquire into and consider any matters that
20 it may believe to have a bearing on whether the issue should be approved, including:

- 21 (1) Whether the projects to be financed from the proceeds of the economic
22 development financing bond issue are necessary to secure significant
23 new economic development for a development financing district.
- 24 (2) Whether the proposed projects are feasible.
- 25 (3) The unit of local government's debt management procedures and
26 policies.
- 27 (4) Whether the unit is in default in any of its debt service obligations.
- 28 (5) Whether the private development forecast in the development
29 financing plan would be likely to occur without the public project or
30 projects to be financed by the economic development financing bonds.
- 31 (6) Whether taxes on the incremental valuation accruing to the
32 development financing district, together with any other revenues
33 available under G.S. 159-110, will be sufficient to service the proposed
34 economic development financing bonds.
- 35 (7) The ability of the Commission to market the proposed economic
36 development financing bonds at reasonable rates of interest.

37 (b) The Commission shall approve the application if, upon the information and
38 evidence it receives, it finds that:

- 39 (1) The proposed economic development financing bond issue is
40 necessary to secure significant new economic development for a
41 development financing district.
- 42 (2) The amount proposed is adequate and not excessive for the proposed
43 purpose of the issue.
- 44 (3) The proposed projects are feasible.

- 1 (4) The unit of local government's debt management procedures and
2 policies are good, or that reasonable assurances have been given that
3 its debt will henceforth be managed in strict compliance with law.
- 4 (5) The private development forecast in the development financing plan
5 would not be likely to occur without the public projects to be financed
6 by the economic development financing bonds.
- 7 (6) The proposed economic development financing bonds can be marketed
8 at reasonable interest cost to the issuing unit.
- 9 (7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3,
10 adopted a development financing plan for the development financing
11 district for which the bonds are to be issued.
- 12 (8) The taxes on the incremental valuation accruing to the development
13 financing district, together with any other revenues available under
14 G.S. 159-110, will be sufficient to service the proposed economic
15 development financing bonds.

16 **"§ 159-106. Order approving or denying the application.**

17 (a) After considering an application, the Commission shall enter its order either
18 approving or denying the application. An order approving an issue is not an approval of
19 the legality of the bonds in any respect.

20 (b) Unless the bonds are to be issued for a development financing district for
21 which an economic development financing bond issue has already been approved, the
22 day upon which the Commission enters its order approving an application for economic
23 development financing bonds is also the effective date of the development financing
24 district for which the bonds are issued.

25 (c) If the Commission enters an order denying the application, the proceedings
26 under this Article are at an end.

27 **"§ 159-107. Determination of incremental valuation; use of taxes levied on**
28 **incremental valuation; duration of the district.**

29 (a) Base Valuation in the Development Financing District. – After the Local
30 Government Commission has entered its order approving a unit of local government's
31 application for economic development financing bonds, the unit shall immediately
32 notify the tax assessor of the county in which the development financing district is
33 located of the existence of the development financing district. Upon receiving this
34 notice, the tax assessor shall determine the base valuation of the district, which is the
35 assessed value of taxable property located in the district on the January 1 immediately
36 preceding the effective date of the district. If the unit or an agency of the unit acquired
37 property within the district within one year before the effective date of the district, the
38 tax assessor shall presume, subject to rebuttal, that the property was acquired in
39 contemplation of the district and shall include the value of the property so acquired in
40 determining the base valuation of the district. The unit may rebut this presumption by
41 showing that the property was acquired primarily for a purpose other than to reduce the
42 tax incremental base. After determining the base valuation of the development
43 financing district, the tax assessor shall certify the valuation to: (i) the issuing unit; (ii)
44 the county in which the district is located if the issuing unit is not the county; and (iii)

1 any special district, as defined in G.S. 159-7, within which the development financing
2 district is located.

3 (b) Adjustments to the Base Valuation. – During the lifetime of the development
4 financing district, the base valuation shall be adjusted as follows:

5 (1) If the unit amends its development financing plan, pursuant to G.S.
6 160A-515.1 or G.S. 158-7.3, to remove property from the development
7 financing district, on the succeeding January 1, that property shall be
8 removed from the district and the base valuation reduced accordingly.

9 (2) If the unit amends its development financing plan, pursuant to G.S.
10 160A-515.1 or G.S. 158-7.3, to expand the district, the new property
11 shall be added to the district immediately. The base valuation of the
12 district shall be increased by the assessed value of the taxable property
13 situated in the added territory on the January 1 immediately preceding
14 the effective date of the district.

15 (3) If, at the time of revaluation pursuant to G.S. 105-286, of property in
16 the county in which the district is located, it appears that, based on the
17 schedule of values, standards, and rules approved by the board of
18 county commissioners pursuant to G.S. 105-317, the property values
19 of the district as they existed on the January 1 immediately preceding
20 the effective date of the district would be increased because of the
21 revaluation, then the base valuation shall be increased accordingly.

22 Each time the base valuation is adjusted, the tax assessor shall immediately certify the
23 new base valuation to: (i) the issuing unit; (ii) the county if the issuing unit is not the
24 county; and (iii) any special district, as defined in G.S. 159-7, within which the
25 development financing district is located.

26 (c) Revenue Increment Fund. – When a unit of local government has established
27 a development financing district, and the economic development financing bonds for
28 that district have been approved by the Commission, the unit shall establish a separate
29 fund to account for the proceeds paid to the unit from taxes levied on the incremental
30 valuation of the district. The unit shall also place in this fund any moneys received
31 pursuant to an agreement entered into under G.S. 159-108.

32 (d) Levy of Property Taxes Within the District. – Each year the development
33 financing district is in existence, the tax assessor shall determine the current assessed
34 value of taxable property located in the district. The assessor shall also compute the
35 difference between this current value and the base valuation of the district. If the
36 current value exceeds the base value, the difference is the incremental valuation of the
37 district. In each year the district is in existence, the county, and if the district is within a
38 city or a special district as defined by G.S. 159-7, the city or the special district, shall
39 levy taxes against property in the district in the same manner as taxes are levied against
40 other property in the county, city, or special district. The proceeds from ad valorem
41 taxes levied on property in the development financing district shall be distributed as
42 follows:

43 (1) In any year in which there is no incremental valuation of the district,
44 all the proceeds of the taxes shall be retained by the county, city, or

1 special district, as if there were no development financing district in
2 existence.

3 (2) In any year in which there is an incremental valuation of the district,
4 the amount of tax due from each taxpayer on property in the district,
5 except taxes levied to service and repay debt secured by a pledge of
6 the faith and credit of the unit, nonschool taxes levied pursuant to a
7 vote of the people, taxes levied for a municipal or county service
8 district, and city taxes levied in a development financing district
9 established by a county and for which there is no increment agreement
10 between the city and county, shall be multiplied by a fraction, the
11 numerator of which is the base valuation for the district and the
12 denominator of which is the current valuation for the district. The
13 amount shown as the product of this multiplication shall, when paid by
14 the taxpayer, be retained by the county, city, or special district, as if
15 there were no development financing district in existence. The net
16 proceeds of the remaining amount shall, when paid by the taxpayer, be
17 turned over to the issuing unit's finance officer, who shall place this
18 amount in the special revenue increment fund required by subsection
19 (c) of this section. The net proceeds of each debt service tax, each
20 nonschool voted tax, each service district tax, and each tax levied by a
21 city on property in a district that was established by a county and for
22 which there is no increment agreement between the city and county
23 shall be paid to the government levying the tax. 'Net proceeds' is gross
24 proceeds less refunds, releases, and any collection fee paid by the
25 levying government to the collecting government.

26 (e) Effect of Annexation on District Established by a County. – If a city annexes
27 land in a development financing district established by a county pursuant to G.S. 158-
28 7.3, the proceeds of all taxes levied by the city on property within the district shall be
29 paid to the city unless the city enters into an agreement with the county pursuant to this
30 subsection. The city and the county may enter into an increment agreement under
31 which the city agrees that city taxes on part or all of the incremental valuation in the
32 district shall be paid into the revenue increment fund for the district. An increment
33 agreement may be entered into when the district is established or at any time after the
34 district is established. The increment agreement may extend for the duration of the
35 district or for a shorter time agreed to by the parties.

36 (f) Use of Moneys in the Revenue Increment Fund. – If the development
37 financing district includes property conveyed or leased by the unit of local government
38 to a private party in consideration of increased tax revenue expected to be generated by
39 improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to
40 the tax revenue taken into account in arriving at the consideration, less the increased tax
41 revenue realized since the construction of the improvement, shall be transferred from
42 the Revenue Increment Fund to the county, city, or special district as if there were no
43 development financing district in existence. Any money in excess of this amount in the
44 Fund may be used for any of the following purposes, without priority other than

1 priorities imposed by the bond order authorizing the economic development financing
2 bonds:

- 3 (1) To finance capital expenditures (including the funding of capital
4 reserves) by the issuing unit in the development financing district
5 pursuant to the development financing plan.
- 6 (2) To meet principal and interest requirements on economic development
7 financing bonds and bond anticipation notes issued for the district.
- 8 (3) To repay the appropriate fund of the issuing unit for any moneys
9 actually expended on debt service on economic development financing
10 bonds pursuant to a pledge made pursuant to G.S. 159-111(b).
- 11 (4) To meet any other requirements imposed by the bond order
12 authorizing the economic development financing bonds.

13 If in any year there is any money remaining in the revenue increment fund after
14 these purposes have been satisfied, it shall be paid to the general fund of the county and,
15 if applicable, of the city and any special district as defined by G.S. 159-7, in proportion
16 to their rates of ad valorem tax on taxable property located in the development financing
17 district.

18 (g) Duration of District. – A development financing district shall terminate at the
19 earlier of (i) the end of the thirtieth year after the effective date of the district or (ii) the
20 date all economic development financing bonds issued for the district have been fully
21 retired or sufficient funds have been set aside, pursuant to the bond order authorizing
22 the bonds, to meet all future principal and interest requirements on the bonds.

23 **"§ 159-108. Agreements with property owners.**

24 (a) Authorization. – A unit of local government that issues economic
25 development financing bonds may enter into agreements with the owners of real
26 property in the development financing district for which the bonds were issued under
27 which the owners agree to a minimum value at which their property will be assessed for
28 taxation. Such an agreement may extend for the life of the development financing
29 district or for a shorter period agreed to by the parties. The agreement may vary the
30 agreed-upon minimum assessed value from year to year.

31 (b) Filing and Recording Agreement. – The unit shall file a copy of any
32 agreement entered into pursuant to this section with the tax assessor for the county in
33 which the development financing district is located. In addition, the unit shall cause the
34 agreement to be recorded in the office of the register of deeds of that county, and the
35 register of deeds shall index the agreement in the grantor's index under the name of the
36 property owner. Once the agreement has been recorded in the office of the register of
37 deeds, as required by this subsection, it is binding, according to its terms and for its
38 duration, on any subsequent owner of the property.

39 (c) Minimum Assessment of Property. – An agreement entered into pursuant to
40 this section establishes a minimum assessment of the real property subject to the
41 agreement. If the county tax assessor determines that the real property has a true value
42 less than the minimum established by the agreement, the assessor shall nevertheless
43 assess the property at the minimum set out in the agreement. If the assessor, however,

1 determines that the real property has a true value greater than the minimum established
2 by the agreement, the assessor shall assess the property at the true value.

3 (d) Effect of Reappraisal. – If an agreement entered into pursuant to this section
4 continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286,
5 the minimum assessment established in the agreement shall be adjusted as provided in
6 this subsection. After the issuing unit of local government has adopted its budget
7 ordinance and levied taxes for the fiscal year that begins next after the effective date of
8 the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem
9 taxes levied by the unit and applicable to the property subject to the agreement. It shall
10 also certify to the assessor the total rate of ad valorem taxes levied by the unit and
11 applicable to the property in the immediately preceding fiscal year. The assessor shall
12 determine the total amount of ad valorem taxes levied by the unit on the property in the
13 immediately preceding fiscal year, based on the tax rate certified by the issuing unit.
14 The assessor shall then determine a value of the property that would provide the same
15 total amount of ad valorem taxes based on the tax rate certified for the fiscal year
16 beginning next after the effective date of the reappraisal. The value so determined is the
17 new minimum assessment for the property subject to the agreement.

18 (e) Agreement Effective Regardless of Improvements. – An agreement entered
19 into pursuant to this section remains in effect according to its terms regardless whether
20 the improvements anticipated in the development financing plan are completed or
21 whether those improvements continue to exist during the duration of the agreement.
22 However, if any part of the property subject to the agreement is acquired by a public
23 agency, the agreement is automatically modified by removing the acquired property
24 from the agreement and reducing the minimum assessment accordingly.

25 **"§ 159-109. Special covenants.**

26 An economic development financing bond order or a trust agreement securing
27 economic development financing bonds may contain covenants regarding:

- 28 (1) The pledge of all or any part of the taxes received or to be received on
29 the incremental valuation in the development financing district during
30 the life of the bonds.
- 31 (2) Rates, fees, rentals, tolls, or other charges to be established,
32 maintained, and collected, and the use and disposal of revenues, gifts,
33 grants, and funds received or to be received.
- 34 (3) The setting aside of debt service reserves and the regulation and
35 disposition of these reserves.
- 36 (4) The custody, collection, securing, investment, and payment of any
37 moneys held for the payment of economic development financing
38 bonds.
- 39 (5) Limitations or restrictions on the purposes to which the proceeds of
40 sale of economic development financing bonds may be applied.
- 41 (6) Limitations or restrictions on the issuance of additional economic
42 development financing bonds or notes for the same development
43 financing district, the terms upon which additional economic
44 development financing bonds or notes may be issued or secured, or the

- 1 refunding of outstanding economic development financing bonds or
2 notes.
- 3 (7) The acquisition and disposal of property for economic development
4 financing bond projects.
- 5 (8) Provision for insurance and for accounting reports, and the inspection
6 and audit of accounting reports.
- 7 (9) The continuing operation and maintenance of projects financed with
8 the proceeds of the economic development financing bonds.

9 **"§ 159-110. Security of economic development financing bonds.**

10 Economic development financing bonds are special obligations of the issuing unit.
11 Moneys in the revenue increment fund required by G.S. 159-107(c) are pledged to the
12 payment of the bonds. Except as provided in G.S. 159-111, the unit may pledge the
13 following additional sources of funds to the payment of the bonds, and no other sources:
14 the proceeds from the sale of property in the development financing district; net
15 revenues from any public facilities, other than portions of public utility systems, in the
16 development financing district financed with the proceeds of the economic development
17 financing bonds; and, subject to G.S. 159-47, net revenues from any other public
18 facilities, other than portions of public utility systems, in the development financing
19 district constructed or improved pursuant to the development financing plan.

20 Except as provided in G.S. 159-111, the principal and interest on economic
21 development financing bonds do not constitute a legal or equitable pledge, charge, lien,
22 or encumbrance upon any of the unit's property or upon any of its income, receipts, or
23 revenues, except as may be provided pursuant to this section. Except as provided in
24 G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of the unit is
25 pledged for the payment of the principal or interest of economic development financing
26 bonds, and no holder of economic development financing bonds has the right to compel
27 the exercise of the taxing power by the unit or the forfeiture of any of its property in
28 connection with any default on the bonds. Unless the unit's taxing power has been
29 pledged pursuant to G.S. 159-111, every economic development financing bond shall
30 contain recitals sufficient to show the limited nature of the security for the bond's
31 payment and that it is not secured by the full faith and credit of the unit.

32 **"§ 159-111. Additional security for economic development financing bonds.**

33 (a) In order to provide additional security for bonds issued pursuant to this
34 Article, the issuing unit of local government may pledge its faith and credit for the
35 payment of the principal of and interest on the bonds. Before such a pledge may be
36 given, the unit shall follow the procedures for and meet the requirements for approval of
37 general obligation bonds under Article 4 of this Chapter. The unit shall also follow the
38 procedures and meet the requirements of this Article. If bonds are issued pursuant to
39 this Article and are also secured by a pledge of the issuing unit's faith and credit, the
40 bonds are subject to G.S. 159-112 rather than G.S. 159-65.

41 (b) In order to provide additional security for bonds issued pursuant to this
42 Article, and in lieu of pledging its faith and credit for that purpose pursuant to
43 subsection (a) of this section, a unit of local government may agree to apply to the
44 payment of the bonds any available sources of revenues of the unit, as long as the

1 agreement to use the sources to make payment does not constitute a pledge of the unit's
2 taxing power or of the unit's revenues derived from local sales taxes. In addition, to the
3 extent the generation of the revenues is within the power of the unit, the unit may enter
4 into covenants to take action in order to generate the revenues, as long as the covenant
5 does not constitute a pledge of the unit's taxing power.

6 No agreement or covenant may contain a nonsubstitution clause that restricts the
7 right of the issuing unit of local government to replace or provide a substitute for any
8 project financed pursuant to this subsection.

9 The obligation of a unit of local government with respect to the sources of payment
10 shall be specifically identified in the proceedings of the governing body authorizing the
11 unit to issue the bonds. The sources of payment so specifically identified and then held
12 or thereafter received by the unit or any fiduciary of the unit shall immediately be
13 subject to the lien of the proceedings without any physical delivery of the sources or
14 further act. The lien shall be valid and binding as against all parties having claims of
15 any kind against a unit without regard to whether the parties have notice of the lien.
16 The proceedings or any other document or action by which the lien on a source of
17 payment is created need not be filed or recorded in any manner other than as provided in
18 this Article.

19 **"§ 159-112. Limitations on details of bonds.**

20 In fixing the details of economic development financing bonds, the governing body
21 of the issuing unit of local government is subject to these restrictions and directions:

- 22 (1) The maturity date shall not exceed the shorter of (i) the longest of the
23 various maximum periods of usefulness for the projects to be financed
24 with bond proceeds, as prescribed by the Local Government
25 Commission pursuant to G.S. 159-122, or (ii) the end of the thirtieth
26 year after the effective date of the development financing district.
- 27 (2) The first payment of principal shall be payable not more than four
28 years after the date of the bonds.
- 29 (3) Any bond may be made payable on demand or tender for purchase as
30 provided in G.S. 159-79, and any bond may be made subject to
31 redemption prior to maturity, with or without premium, on such notice,
32 at such times, and with such redemption provisions as may be stated.
33 Interest on the bonds shall cease when the bonds have been validly
34 called for redemption and provision has been made for the payment of
35 the principal of the bonds, any redemption, any premium, and the
36 interest on the bonds accrued to the date of redemption.
- 37 (4) The bonds may bear interest at such rates payable semiannually or
38 otherwise, may be in such denominations, and may be payable in such
39 kind of money and in such place or places within or without this State,
40 as the issuing unit may determine.

41 **"§ 159-113. Annual report.**

42 In July of each year, each unit of local government with outstanding economic
43 development financing bonds shall make a report to any other unit, and to any special
44 district as defined in G.S. 159-7, in which the development financing district for which

1 the bonds were issued is located. This report shall set out the base valuation for the
2 development financing district, the current valuation for the district, the amount of
3 remaining economic development financing debt for the district, and the unit's estimate
4 of when the debt will be retired.

5 **"§ 159-114. Participation by minority businesses.**

6 The goals set by G.S. 143-128 for participation in projects by minority businesses
7 apply to projects of a unit of local government that are funded with the proceeds of
8 economic development financing bonds issued under this Article. A unit of local
9 government that issues economic development bonds shall monitor compliance with
10 this requirement and shall report to the General Assembly by January 1 of each year on
11 the participation by minority businesses in these projects."

12 Sec. 3. G.S. 159-48(b) is amended by adding a new subsection to read:

13 "(26) Undertaking public activities in or for the benefit of a development
14 financing district pursuant to a development financing plan."

15 Sec. 4. G.S. 159-55(a) reads as rewritten:

16 "(a) After the bond order has been introduced and before the public hearing
17 thereon, the finance officer (or some other officer designated by the governing board for
18 this purpose) shall file with the clerk a statement showing the following:

19 (1) The gross debt of the unit, excluding therefrom debt incurred or to be
20 incurred in anticipation of the collection of taxes or other revenues or
21 in anticipation of the sale of bonds other than funding and refunding
22 bonds. The gross debt (after exclusions) is the sum of (i) outstanding
23 debt evidenced by bonds, (ii) bonds authorized by orders introduced
24 but not yet adopted, (iii) unissued bonds authorized by adopted orders,
25 and (iv) outstanding debt not evidenced by bonds. However, for
26 purposes of the sworn statement of debt and the debt limitation,
27 revenue bonds and economic development financing bonds (unless
28 additionally secured by a pledge of the issuing unit's faith and credit)
29 shall not be considered debt and such bonds shall not be included in
30 gross debt nor deducted from gross debt.

31 (2) The deductions to be made from gross debt in computing net debt. The
32 following deductions are allowed:

- 33 a. Funding and refunding bonds authorized by orders introduced
34 but not yet adopted.
- 35 b. Funding and refunding bonds authorized but not yet issued.
- 36 c. The amount of money held in sinking funds or otherwise for the
37 payment of any part of the principal of gross debt other than
38 debt incurred for water, gas, electric light or power purposes, or
39 sanitary sewer purposes (to the extent that the bonds are
40 deductible under subsection (b) of this section), or two or more
41 of these purposes.
- 42 d. The amount of bonded debt included in gross debt and incurred,
43 or to be incurred, for water, gas, or electric light or power
44 purposes, or any two or more of these purposes.

- 1 e. The amount of bonded debt included in the gross debt and
 2 incurred, or to be incurred, for sanitary sewer system purposes
 3 to the extent that the debt is made deductible by subsection (b)
 4 of this section.
- 5 f. The amount of uncollected special assessments theretofore
 6 levied for local improvements for which any part of the gross
 7 debt (that is not otherwise deducted) was or is to be incurred, to
 8 the extent that the assessments will be applied, when collected,
 9 to the payment of any part of the gross debt.
- 10 g. The amount, as estimated by the governing board of the issuing
 11 unit or an officer designated by the board for this purpose, of
 12 special assessments to be levied for local improvements for
 13 which any part of the gross debt (that is not otherwise deducted)
 14 was or is to be incurred, to the extent that the special
 15 assessments, when collected, will be applied to the payment of
 16 any part of the gross debt.
- 17 (3) The net debt of the issuing unit, being the difference between the gross
 18 debt and deductions.
- 19 (4) The assessed value of property subject to taxation by the issuing unit,
 20 as revealed by the tax records and certified to the issuing unit by the
 21 assessor. In calculating the assessed value, the incremental valuation
 22 of any development financing district located in the unit, as determined
 23 pursuant to G.S. 159-107, shall not be included.
- 24 (5) The percentage that the net debt bears to the assessed value of property
 25 subject to taxation by the issuing unit."

26 Sec. 5. G.S. 159-79(a) reads as rewritten:

27 "(a) Notwithstanding any provisions of this Chapter to the contrary, including
 28 particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S.
 29 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S.
 30 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general
 31 obligation bonds to be issued pursuant to this Article or general obligation notes to be
 32 issued pursuant to Article 9 of this Chapter or economic development financing bonds
 33 or notes to be issued pursuant to Article 6 of this Chapter, may provide that such bonds
 34 or notes

- 35 (1) May be made payable from time to time on demand or tender for
 36 purchase by the owner provided a Credit Facility supports such bonds
 37 or notes, unless the Commission specifically determines that a Credit
 38 Facility is not required upon a finding and determination by the
 39 Commission that the proposed bonds or notes will satisfy the
 40 conditions set forth in G.S. 159-52;
- 41 (2) May be additionally supported by a Credit Facility;
- 42 (3) May be made subject to redemption prior to maturity, with or without
 43 premium, on such notice, at such time or times, at such price or prices
 44 and with such other redemption provisions as may be stated in the

1 resolution fixing the details of such bonds or notes or with such
2 variations as may be permitted in connection with a Par Formula
3 provided in such resolution;

4 (4) May bear interest at a rate or rates that may vary as permitted pursuant
5 to a Par Formula and for such period or periods of time, all as may be
6 provided in such resolution; and

7 (5) May be made the subject of a remarketing agreement whereby an
8 attempt is made to remarket the bonds to new purchases prior to their
9 presentment for payment to the provider of the Credit Facility or to the
10 issuing unit."

11 Sec. 6. G.S. 159-120 reads as rewritten:

12 **"§ 159-120. Definitions.**

13 As used in this Article, unless the context clearly requires another meaning, the
14 words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. ~~159-44,~~
15 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North
16 Carolina, and the words 'governing body,' when used with respect to the State of North
17 Carolina, mean the Council of State."

18 Sec. 7. G.S. 159-122(a) reads as rewritten:

19 "(a) Except as provided in this subsection, the last installment of each bond issue
20 shall mature not later than the date of expiration of the period of usefulness of the
21 capital project to be financed by the bond issue, computed from the date of the bonds.
22 The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or
23 (5) shall mature not later than either (i) the shortest period, but not more than 40 years,
24 in which the debt to be refunded can be finally paid without making it unduly
25 burdensome on the taxpayers of the issuing unit, as determined by the Commission,
26 computed from the date of the bonds, or (ii) the end of the unexpired period of
27 usefulness of the capital project financed by the debt to be refunded. The last
28 installment of bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), (6), or (7) shall
29 mature not later than 10 years after the date of the bonds, as determined by the
30 Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall
31 mature not later than eight years after the date of the bonds, as determined by the
32 Commission. The last installment of economic development financing bonds shall
33 mature on the earlier of 30 years after the effective date of the development financing
34 district for which the bonds are issued or the longest of the various maximum periods of
35 usefulness for the projects to be financed with bond proceeds, as prescribed by the
36 Commission pursuant to this section."

37 Sec. 8. G.S. 159-123(b) reads as rewritten:

38 "(b) The following classes of bonds may be sold at private sale:

- 39 (1) Bonds that a State or federal agency has previously agreed to purchase.
40 (2) Any bonds for which no legal bid is received within the time allowed
41 for submission of bids.
42 (3) Revenue bonds, including any refunding bonds issued pursuant to G.S.
43 159-84, and special obligation bonds issued pursuant to Chapter 159I
44 of the General Statutes.

- 1 (4) Refunding bonds issued pursuant to G.S. 159-78.
2 (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local
3 Government Commission determines that a private sale is in the best
4 interest of the issuing unit.

5 (6) Economic development financing bonds."

6 Sec. 9. G.S. 159-125(a) reads as rewritten:

7 "(a) Except for revenue ~~bonds,~~ bonds and economic development financing bonds,
8 no bid for less than ninety-eight percent (98%) of the face value of the bonds plus one
9 hundred percent (100%) of accrued interest may be entertained.

10 Different rates of interest may be bid for bonds maturing in different years, but
11 different rates of interest may not be bid for bonds maturing in the same year."

12 Sec. 10. G.S. 159-129 reads as rewritten:

13 **"§ 159-129. Obligations of units certified by Commission.**

14 Each bond or bond anticipation note that is represented by an instrument shall bear
15 on its face or reverse a certificate signed by the secretary of the Commission or an
16 assistant designated by him that the issuance of the bond or note has been approved
17 under the provisions of ~~The Local Government Bond Act of Acts,~~ the Local Government
18 Revenue Bond Act, or the North Carolina Economic Development Financing Act.
19 Such signature may be a manual or facsimile signature as the Commission may
20 determine. Each bond or bond anticipation note that is not represented by an instrument
21 shall be evidenced by a writing relating to such obligation, which writing shall identify
22 such obligation or the issue of which it is part, bear such certificate and be on file with
23 the Commission. The certificate shall be conclusive evidence that the requirements of
24 this Subchapter have been observed, and no bond or note without the Commission's
25 certificate or with respect to which a writing bearing such certificate has not been filed
26 with the Commission shall be valid."

27 Sec. 11. G.S. 159-132 reads as rewritten:

28 **"§ 159-132. State Treasurer to deliver bonds and remit proceeds.**

29 When the bonds are executed, they shall be delivered to the State Treasurer who
30 shall deliver them to the order of the purchaser and collect the purchase price or
31 proceeds. The Treasurer shall then pay from the proceeds any notes issued in
32 anticipation of the sale of the bonds, deduct from the proceeds the Commission's
33 expense in connection with the issue, and remit the net proceeds to the official
34 depository of the unit after assurance that the deposit will be adequately secured as
35 required by law. The proceeds of funding or refunding bonds may be deposited at the
36 place of payment of the indebtedness to be refunded or funded for use solely in the
37 payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the
38 trustee or other depository specified in the trust agreement or resolution securing them.
39 Unless otherwise provided in the trust agreement or resolution securing the bonds, the
40 proceeds of economic development financing bonds shall be remitted in the manner
41 provided by this section for the remission of the proceeds of general obligation bonds."

42 Sec. 12. G.S. 159-160 reads as rewritten:

43 **"§ 159-160. Definitions.**

1 As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government'
2 as defined in G.S. ~~159-44, 159-44~~ or G.S. 159-102, 'municipality' as defined in G.S. 159-
3 81, and the State of North Carolina."

4 Sec. 13. G.S. 159-163.1 is reenacted and is rewritten to read:

5 **"§ 159-163.1. Security of economic development financing bond anticipation notes.**

6 Notes issued in anticipation of the sale of economic development financing bonds
7 are special obligations of the issuing unit. Except as provided in G.S. 159-107 and G.S.
8 159-110, neither the credit nor the taxing power of the issuing unit may be pledged for
9 the payment of notes issued in anticipation of the sale of economic development
10 financing bonds; and no holder of an economic development financing bond
11 anticipation note shall have the right to compel the exercise of the taxing power by the
12 issuing unit or the forfeiture of any of its property in connection with any default
13 thereon. Notes issued in anticipation of the sale of economic development financing
14 bonds may be secured by the same pledges, charges, liens, covenants, and agreements
15 made to secure the economic development financing bonds. In addition, the proceeds of
16 each economic development financing bond issue are pledged for the payment of any
17 notes issued in anticipation of the sale thereof, and any such notes shall be retired from
18 the proceeds of the sale as the first priority."

19 Sec. 14. G.S. 159-165(b) reads as rewritten:

20 "(b) When the bond anticipation notes are executed, they shall be delivered to the
21 State Treasurer who shall deliver them to the order of the purchaser and collect the
22 purchase price or proceeds. The Treasurer shall then deduct from the proceeds the
23 Commission's expense in connection with the issue, and remit the net proceeds to the
24 official depository of the unit after assurance that the deposit will be adequately secured
25 as required by law. The net proceeds of revenue bond anticipation ~~notes or notes,~~
26 special obligation bond anticipation ~~notes~~ notes, or economic development financing
27 bond anticipation notes shall be remitted to the trustee or other depository specified in
28 the trust agreement or resolution securing them. If the notes have been issued to renew
29 outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds,
30 may provide for the exchange of the newly issued notes for the notes to be renewed."

31 Sec. 15. G.S. 159-176 reads as rewritten:

32 **"§ 159-176. Commission to aid defaulting units in developing refinancing plans.**

33 If a unit of local government or municipality (~~as defined in G.S. 159-44 or 159-81~~) (as
34 defined in G.S. 159-44, 159-81, or 159-102) fails to pay any installment of principal or
35 interest on its outstanding debt on or before the due date (whether the debt is evidenced
36 by general obligation bonds, revenue bonds, economic development financing bonds,
37 bond anticipation notes, tax anticipation notes, or revenue anticipation notes) and
38 remains in default for 90 days, the Commission may take such action as it deems
39 advisable to investigate the unit's or municipality's fiscal affairs, consult with its
40 governing board, and negotiate with its creditors in order to assist the unit or
41 municipality in working out a plan for refinancing, adjusting, or compromising the debt.
42 When a plan is developed that the Commission finds to be fair and equitable and
43 reasonably within the ability of the unit or municipality to meet, the Commission shall
44 enter an order finding that it is fair, equitable, and within the ability of the unit or

1 municipality to meet. The Commission shall then advise the governing board to take
2 the necessary steps to implement it. If the governing board declines or refuses to do so
3 within 90 days after receiving the Commission's advice, the Commission may enter an
4 order directing the governing board to implement the plan. When this order is entered,
5 the members of the governing board and all officers and employees of the unit or
6 municipality shall be under an affirmative duty to do all things necessary to implement
7 the plan. The Commission may apply to the appropriate division of the General Court
8 of Justice for a court order to the governing board and other officers and employees of
9 the unit or municipality to enforce the Commission's order."

10 Sec. 16. G.S. 160A-505(a) reads as rewritten:

11 "(a) In lieu of creating a redevelopment commission as authorized herein, the
12 governing body of any municipality may, if it deems wise, either designate a housing
13 authority created under the provisions of Chapter 157 of the General Statutes to exercise
14 the powers, duties, and responsibilities of a redevelopment commission as prescribed
15 herein, or undertake to exercise such powers, duties, and responsibilities itself. Any
16 such designation shall be by passage of a resolution adopted in accordance with the
17 procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the
18 event a governing body designates itself to perform the powers, duties, and
19 responsibilities of a redevelopment ~~commission,~~ commission under this subsection, or
20 exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or G.S.
21 160A-456, then where any act or proceeding is required to be done, recommended, or
22 approved both by a redevelopment commission and by the municipal governing body,
23 then the performance, recommendation, or approval thereof once by the municipal
24 governing body shall be sufficient to make such performance, recommendation, or
25 approval valid and legal. In the event a municipal governing body designates itself to
26 exercise the powers, duties, and responsibilities of a redevelopment commission, it may
27 assign the administration of redevelopment policies, programs and plans to any existing
28 or new department of the municipality."

29 Sec. 17. G.S. 160A-512(6) reads as rewritten:

30 "(6) Within its area of operation, to purchase, obtain options upon, acquire
31 by gift, grant, bequest, devise, eminent domain or otherwise, any real
32 or personal property or any interest therein, together with any
33 improvements thereon, necessary or incidental to a redevelopment
34 project; to hold, improve, clear or prepare for redevelopment any such
35 property, and ~~notwithstanding the provisions of G.S. 160-59 but~~ subject to
36 the provisions of G.S. 160A-514, and with the approval of the local
37 governing body sell, exchange, transfer, assign, subdivide, retain for
38 its own use, mortgage, pledge, hypothecate or otherwise encumber or
39 dispose of any real or personal property or any interest therein, either
40 as an entirety to a single 'redeveloper' or in parts to several
41 redevelopers; provided that the commission finds that the sale or other
42 transfer of any such part will not be prejudicial to the sale of other
43 parts of the redevelopment area, nor in any other way prejudicial to the
44 realization of the redevelopment plan approved by the governing body;

1 to enter into ~~contracts~~ contracts, either before or after the real property
2 that is the subject of the contract is acquired by the Commission
3 (although disposition of the property is still subject to G.S. 160A-514),
4 with 'redevelopers' of property containing covenants, restrictions, and
5 conditions regarding the use of such property for residential,
6 commercial, industrial, recreational purposes or for public purposes in
7 accordance with the redevelopment plan and such other covenants,
8 restrictions and conditions as the commission may deem necessary to
9 prevent a recurrence of blighted areas or to effectuate the purposes of
10 this Article; to make any of the covenants, restrictions or conditions of
11 the foregoing contracts covenants running with the land, and to
12 provide appropriate remedies for any breach of any such covenants or
13 conditions, including the right to terminate such contracts and any
14 interest in the property created pursuant thereto; to borrow money and
15 issue bonds therefor and provide security for bonds; to insure or
16 provide for the insurance of any real or personal property or operations
17 of the commission against any risks or hazards, including the power to
18 pay premiums on any such insurance; and to enter into any contracts
19 necessary to effectuate the purposes of this Article;"

20 Sec. 18. G.S. 160A-515.1 is reenacted and is rewritten to read:

21 **"§ 160A-515.1. Economic development financing.**

22 (a) Authorization. – A city may finance a redevelopment project and any related
23 public improvements with the proceeds of economic development financing bonds,
24 issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any
25 other revenues that are available to the city. Before it receives the approval of the Local
26 Government Commission for issuance of economic development financing bonds, the
27 city's governing body must define a development financing district and adopt a
28 development financing plan for the district.

29 (b) Development Financing District. – A development financing district shall
30 comprise all or portions of one or more redevelopment areas defined pursuant to this
31 Article. The total land area within development financing districts in a city, including
32 development financing districts created pursuant to G.S. 158-7.3, may not exceed five
33 percent (5%) of the total land area of the city.

34 (c) Development Financing Plan. – The development financing plan shall be
35 compatible with the redevelopment plan or plans for the redevelopment area or areas
36 included within the district. The development financing plan shall include:

- 37 (1) A description of the boundaries of the development financing district;
- 38 (2) A description of the proposed development of the district, both public
39 and private;
- 40 (3) The costs of the proposed public activities;
- 41 (4) The sources and amounts of funds to pay for the proposed public
42 activities;
- 43 (5) The base valuation of the development financing district;

- 1 (6) The projected incremental valuation of the development financing
2 district;
- 3 (7) The estimated duration of the development financing district;
- 4 (8) A description of how the proposed development of the district, both
5 public and private, will benefit the residents and business owners of
6 the district in terms of jobs, affordable housing, or services;
- 7 (9) A description of the appropriate ameliorative activities which will be
8 undertaken if the proposed projects have a negative impact on
9 residents or business owners of the district in terms of jobs, affordable
10 housing, services, or displacement; and
- 11 (10) A requirement that the initial users of any new manufacturing facilities
12 that will be located in the district and that are included in the plan will
13 comply with the wage requirements in subsection (d) of this section.

14 (d) Wage Requirements. – A development financing plan shall include a
15 requirement that the initial users of a new manufacturing facility to be located in the
16 district and included in the plan must pay its employees an average weekly
17 manufacturing wage that is either above the average manufacturing wage paid in the
18 county in which the district will be located or not less than ten percent (10%) above the
19 average weekly manufacturing wage paid in the State. The plan may include
20 information on the wages to be paid by the initial users of a new manufacturing facility
21 to its employees and any provisions necessary to implement the wage requirement. The
22 issuing unit's governing body shall not adopt a plan until the Secretary of Commerce
23 certifies that the Secretary has reviewed the average weekly manufacturing wage
24 required by the plan to be paid to the employees of a new manufacturing facility and has
25 found either (i) that the wages proposed by the initial users of a new manufacturing
26 facility are in compliance with the amount required by this subsection or (ii) that the
27 plan is exempt from the requirement of this subsection. The Secretary of Commerce
28 may exempt a plan from the requirement of this subsection if the Secretary receives a
29 resolution from the issuing unit's governing body requesting an exemption from the
30 wage requirement and a letter from an appropriate State official, selected by the
31 Secretary, finding that unemployment in the county in which the proposed district is to
32 be located is especially severe. Upon the creation of the district, the unit of local
33 government proposing the creation of the district shall take any lawful actions necessary
34 to require compliance with the applicable wage requirement by the initial users of any
35 new manufacturing facility included in the plan; however, failure to take such actions or
36 obtain such compliance shall not affect the validity of any proceedings for the creation
37 of the district, the existence of the district, or the validity of any bonds issued under
38 Article 6 of Chapter 159 of the General Statutes. All findings and determinations made
39 by the Secretary of Commerce under this subsection shall be binding and conclusive.
40 For purposes of this subsection, the term 'manufacturing facility' means any facility that
41 is used in the manufacturing or production of tangible personal property, including the
42 processing resulting in a change in the condition of the property.

43 (e) County Review. – Before adopting a plan for a development financing
44 district, the city council shall cause notice of the plan to be mailed, by first-class mail, to

1 the board of county commissioners of the county or counties in which the development
2 financing district is located. The person mailing the notice shall certify that fact, and
3 the date thereof, to the city council, and the certificate is conclusive in the absence of
4 fraud. Unless the board of county commissioners (or either board, if the district is in
5 two counties) by resolution disapproves the proposed plan within 28 days after the date
6 the notice is mailed, the city council may proceed to adopt the plan.

7 (f) Environmental Review. – Before adopting a plan for development financing
8 districts, the county shall submit the plan to the Secretary of Environment, Health, and
9 Natural Resources to review to determine if the construction and operation of any new
10 manufacturing facility in the district will have a materially adverse effect on the
11 environment and whether the company that will operate the facility has operated in
12 substantial compliance with federal and State laws, regulations, and rules for the
13 protection of the environment. If the Secretary finds that the new manufacturing facility
14 will not have a materially adverse effect on the environment and that the company that
15 will operate the facility has operated other facilities in compliance with environmental
16 requirements, the Secretary shall approve the plan. In making the determination on
17 environmental impact, the Secretary shall use the same criteria that apply to the
18 determination under G.S. 159C-7 of whether an industrial project will have a materially
19 adverse effect on the environment. The findings of the Secretary are conclusive and
20 binding.

21 (g) Plan Adoption. – Before adopting a plan for a development financing district,
22 the city council shall hold a public hearing on the plan. The council shall, no less than
23 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class
24 mail to all property owners and mailing addresses within the proposed development
25 financing district. The council shall also, no more than 30 days and no less than 14 days
26 before the day of the hearing, cause notice of the hearing to be published once in a
27 newspaper of general circulation in the city. The notice shall state the time and place of
28 the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is
29 available for public inspection in the office of the city clerk. At the public hearing, the
30 council shall hear anyone who wishes to speak with respect to the proposed district and
31 proposed plan. Unless a board of county commissioners or the Secretary of
32 Environment, Health, and Natural Resources has disapproved the plan pursuant to
33 subsection (e) or (f) of this section, the council may adopt the plan, with or without
34 amendment, at any time after the public hearing. However, the plan and the district do
35 not become effective until the city's application to issue economic development
36 financing bonds has been approved by the Local Government Commission, pursuant to
37 Article 6 of Chapter 159 of the General Statutes.

38 (h) Plan Modification. – Subject to the limitations of this subsection, a city
39 council may, after the effective date of the district, amend a development financing plan
40 adopted for a development financing district. Before making any amendment, the city
41 council shall follow the procedures and meet the requirements of subsections (d)
42 through (g) of this section. The boundaries of the district may be enlarged only during
43 the first five years after the effective date of the district and only if the area to be added
44 has been or is about to be developed and the development is primarily attributable to

1 development that has occurred within the district, as certified by the Local Government
2 Commission. The boundaries of the district may be reduced at any time, but the city
3 may agree with the holders of any economic development financing bonds to restrict its
4 power to reduce district boundaries.

5 (i) Plan Implementation. – In implementing a development financing plan, a city
6 may act directly, through a redevelopment commission, through one or more contracts
7 with private agencies, or by any combination thereof."

8 Sec. 19. Article 1 of Chapter 158 of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 158-7.3. Development financing.**

11 (a) Definitions. – As used in this section:

12 (1) 'Economic development project' means a capital project that includes
13 capital expenditures by both private persons and one or more units of
14 local government and that increases net employment opportunities for
15 residents of the development district or within a two-mile radius of the
16 project, whichever is larger, and local government tax base.

17 If the district in which such a project will occur is outside a city's
18 central business district (as that district is defined by resolution of the
19 city council, which definition is binding and conclusive), then, of the
20 private development forecast for an economic development project by
21 the development financing plan for the district in which the project
22 will occur, a maximum of twenty percent (20%) of the plan's estimated
23 square footage of floor space may be proposed for use in retail sales,
24 hotels, banking, and financial services offered directly to consumers,
25 and other commercial uses other than office space.

26 (2) 'Publish' means insertion in a newspaper qualified under G.S. 1-597 to
27 publish legal advertisements in the county or counties in which the unit
28 is located.

29 (3) 'Unit' or 'unit of local government' means a county, city, town, or
30 incorporated village.

31 (b) Authorization. – A unit of local government may finance public
32 improvements that are part of an economic development project with the proceeds of
33 economic development financing bonds, issued pursuant to Article 6 of Chapter 159 of
34 the General Statutes, together with any other revenues that are available to the unit.
35 Before it receives the approval of the Local Government Commission for issuance of
36 economic development financing bonds, the unit's governing body must define a
37 development financing district and adopt a development financing plan for the district.

38 (c) Development Financing District. – A development financing district created
39 pursuant to this section must be comprised of property that is either:

40 (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately
41 developed from the standpoint of sound community development and
42 growth;

43 (2) Appropriate for rehabilitation or conservation activities; or

44 (3) Appropriate for the economic development of the community.

1 The total land area within development financing districts in a unit, including
2 development financing districts created pursuant to G.S. 160A-515.1, may not exceed
3 five percent (5%) of the total land area of the unit. A county may not include in a
4 district created pursuant to this section any land that, at the time the district is created, is
5 inside a city, town, or incorporated village.

6 (d) Development Financing Plan. – The development financing plan shall
7 include:

- 8 (1) A description of the boundaries of the development financing district;
- 9 (2) A description of the proposed development of the district, both public
10 and private;
- 11 (3) The costs of the proposed public activities;
- 12 (4) The sources and amounts of funds to pay for the proposed public
13 activities;
- 14 (5) The base valuation of the development financing district;
- 15 (6) The projected incremental valuation of the development financing
16 district;
- 17 (7) The estimated duration of the development financing district;
- 18 (8) A description of how the proposed development of the district, both
19 public and private, will benefit the residents and business owners of
20 the district in terms of jobs, affordable housing, or services;
- 21 (9) A description of the appropriate ameliorative activities which will be
22 undertaken if the proposed projects have a negative impact on
23 residents or business owners of the district in terms of jobs, affordable
24 housing, services, or displacement; and
- 25 (10) A requirement that the initial users of any new manufacturing facilities
26 that will be located in the district and that are included in the plan will
27 comply with the wage requirements referred to in subsection (d) of this
28 section.

29 (d) Wage Requirements. – A development financing plan shall include a
30 requirement that the initial users of a new manufacturing facility to be located in the
31 district and included in the plan must pay its employees an average weekly
32 manufacturing wage that is either above the average manufacturing wage paid in the
33 county in which the district will be located or not less than ten percent (10%) above the
34 average weekly manufacturing wage paid in the State. The plan may include
35 information on the wages to be paid by the initial users of a new manufacturing facility
36 to its employees and any provisions necessary to implement the wage requirement. The
37 issuing unit's governing body shall not adopt a plan until the Secretary of Commerce
38 certifies that the Secretary has reviewed the average weekly manufacturing wage
39 required by the plan to be paid to the employees of a new manufacturing facility and has
40 found either (i) that the wages proposed by the initial users of a new manufacturing
41 facility are in compliance with the amount required by this subsection or (ii) that the
42 plan is exempt from the requirement of this subsection. The Secretary of Commerce
43 may exempt a plan from the requirement of this subsection if the Secretary receives a
44 resolution from the issuing unit's governing body requesting an exemption from the

1 wage requirement and a letter from an appropriate State official, selected by the
2 Secretary, finding that unemployment in the county in which the proposed district is to
3 be located is especially severe. Upon the creation of the district, the unit of local
4 government proposing the creation of the district shall take any lawful actions necessary
5 to require compliance with the applicable wage requirement by the initial users of any
6 new manufacturing facility included in the plan; however, failure to take such actions or
7 obtain such compliance shall not affect the validity of any proceedings for the creation
8 of the district, the existence of the district, or the validity of any bonds issued under
9 Article 6 of Chapter 159 of the General Statutes. All findings and determinations made
10 by the Secretary of Commerce under this subsection shall be binding and conclusive.
11 For purposes of this subsection, the term 'manufacturing facility' means any facility that
12 is used in the manufacturing or production of tangible personal property, including the
13 processing resulting in a change in the condition of the property.

14 (e) County Review. – If the unit creating a development financing district and
15 adopting a development financing plan is a city, town, or incorporated village, before
16 adopting the plan the unit's governing body shall cause notice of the plan to be mailed,
17 by first-class mail, to the board of county commissioners of the county or counties in
18 which the development financing district is located. The person mailing the notice shall
19 certify that fact, and the date thereof, to the governing body, and the certificate is
20 conclusive in the absence of fraud. Unless the board of county commissioners (or either
21 board, if the district is in two counties) by resolution disapproves the proposed plan
22 within 28 days after the date the notice is mailed, the governing body may proceed to
23 adopt the plan.

24 (f) Environmental Review. – Before adopting a plan for development financing
25 districts, the county shall submit the plan to the Secretary of Environment, Health, and
26 Natural Resources to review to determine if the construction and operation of any new
27 manufacturing facility in the district will have a materially adverse effect on the
28 environment and whether the company that will operate the facility has operated in
29 substantial compliance with federal and State laws, regulations and rules for the
30 protection of the environment. If the Secretary finds that the new manufacturing facility
31 will not have a materially adverse effect on the environment and that the company that
32 will operate the facility has operated other facilities in compliance with environmental
33 requirements, the Secretary shall approve the plan. In making the determination on
34 environmental impact, the Secretary shall use the same criteria that apply to the
35 determination under G.S. 159C-7 of whether an industrial project will have a materially
36 adverse effect on the environment. The findings of the Secretary are conclusive and
37 binding.

38 (g) Plan Adoption. – Before adopting a plan for a development financing district,
39 the issuing unit's governing body shall hold a public hearing on the plan. The governing
40 body shall, no more than 30 days and no less than 14 days before the day of the hearing,
41 cause notice of the hearing to be published once and shall cause notice of the hearing to
42 be mailed, by first-class mail, to all property owners and mailing addresses of the
43 development financing district and to the governing body of any special district, as
44 defined by G.S. 159-7, within which the development financing district is located. The

1 notice shall state the time and place of the hearing, shall specify its purpose, and shall
2 state that a copy of the proposed plan is available for public inspection in the office of
3 the unit's clerk. At the public hearing, the governing body shall hear anyone who
4 wishes to speak with respect to the proposed district and proposed plan. Unless a board
5 of county commissioners or the Secretary of Environment, Health, and Natural
6 Resources has disapproved the plan pursuant to subsection (e) or (f) of this section, the
7 governing body may adopt the plan, with or without amendment, at any time after the
8 public hearing. However, the plan and the district do not become effective until the
9 unit's application to issue economic development financing bonds has been approved by
10 the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General
11 Statutes.

12 (h) Plan Modification. – Subject to the limitations of this subsection, a governing
13 body may, after the effective date of the district, amend a development financing plan
14 adopted for a development financing district. Before making any amendment, the
15 governing body shall follow the procedures and meet the requirements of subsections
16 (d) through (g) of this section. The boundaries of the district may be enlarged only
17 during the first five years after the effective date of the district and only if the area to be
18 added has been or is about to be developed and the development is primarily attributable
19 to development that has occurred within the district, as certified by the Local
20 Government Commission. The boundaries of the district may be reduced at any time,
21 but the unit may agree with the holders of any economic development financing bonds
22 to restrict its power to reduce district boundaries.

23 (i) Plan Implementation. – In implementing a development financing plan, a unit
24 may act directly, through one or more contracts with other public agencies, through one
25 or more contracts with private agencies, or by any combination thereof."

26 Sec. 20. G.S. 105-284 is amended by adding a new subsection to read:

27 "(d) Property that is in a development financing district and that is subject to an
28 agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at
29 the minimum value set out in the agreement, whichever is greater."

30 Sec. 21. Chapter 105 of the General Statutes is amended by adding a new
31 section to read:

32 "**§ 105-277.11. Taxation of property subject to a development financing district**
33 **agreement.**

34 Property that is in a development financing district, established pursuant to G.S.
35 160A-515.1 or G.S. 158-7.3, and that is subject to an agreement entered into pursuant to
36 G.S. 159-108, is designated a special class of property under Article V, Section 2(2)
37 of the North Carolina Constitution and shall be assessed for taxation at the
38 greater of its true value or the minimum value established in the agreement."

39 Sec. 22. G.S. 158-7.1(d1) is repealed.

40 Sec. 23. The following acts are repealed: Chapter 266 of the 1989 Session
41 Laws, Chapter 913 of the 1989 Session Laws (Regular Session 1990), and Chapter 7 of
42 the 1991 Session Laws.

43 Sec. 24. G.S. 158-7.1 is amended by adding a new subsection to read:

1 "(d2) In arriving at the amount of consideration that it receives, the Board may take
2 into account prospective tax revenues from improvements to be constructed on the
3 property, prospective sales tax revenues to be generated in the area, as well as any other
4 prospective tax revenues or income coming to the county or city over the next 10 years
5 as a result of the conveyance or lease provided the following conditions are met:

6 (1) The governing board of the county or city shall determine that the
7 conveyance of the property will stimulate the local economy, promote
8 business, and result in the creation of a substantial number of jobs in
9 the county or city that pay at or above the median wage in the county
10 or, for a city, in the county where the city is located. A city that spans
11 more than one county is considered to be located in the county where
12 the greatest population of the city resides.

13 (2) The governing board of the county or city shall contractually bind the
14 purchaser of the property to construct, within a specified period of
15 time not to exceed five years, improvements on the property that will
16 generate the tax revenue taken into account in arriving at the
17 consideration. Upon failure to construct the improvements specified in
18 the contract, the purchaser shall reconvey the property back to the
19 county or city."

20 Sec. 25. Liberal Construction. This act, being necessary for the prosperity
21 and welfare of the State and its inhabitants, shall be liberally construed to effect these
22 purposes.

23 Sec. 26. Severability. If any clause or other portion of this act is held invalid,
24 that decision shall not affect the validity of the remaining portions of this act, which are
25 severable.

26 Sec. 27. The amendment set out in Section 1 of this act shall be submitted to
27 the qualified voters of the State for their ratification or rejection in a referendum to be
28 held on the first Tuesday after the first Monday of November 1993. At that referendum,
29 each qualified voter desiring to vote shall be provided a ballot on which shall be printed
30 the following:

31 " FOR constitutional amendment permitting the General Assembly to
32 enact general laws permitting issuance of bonds without a referendum
33 to finance public projects associated with private industrial and
34 commercial economic development projects, with the bonds to be
35 secured in whole or in part by the additional revenues from taxes
36 levied on the incremental value of the property in the territorial area.

37 AGAINST constitutional amendment permitting the General
38 Assembly to enact general laws permitting issuance of bonds without a
39 referendum to finance public projects associated with private industrial
40 and commercial economic development projects, with the bonds to be
41 secured in whole or in part by the additional revenues from taxes
42 levied on the incremental value of the property in the territorial area."

43 Those qualified voters favoring the amendment shall vote by making an
44 "X" or a check mark in the square beside the statement beginning "FOR", and those

1 qualified voters opposed to the amendment shall vote by making an "X" or a check mark
2 in the square beside the statement beginning "AGAINST".

3 Notwithstanding the foregoing provisions of this section, voting machines
4 may be used in accordance with rules and regulations prescribed by the State Board of
5 Elections.

6 Sec. 28. If a majority of votes cast thereon are in favor of the amendment set
7 out in Section 1 of this act, the State Board of Elections shall certify the amendment to
8 the Secretary of State, who shall enroll the amendment so certified among the
9 permanent records of the Office of the Secretary of State. The amendment set out in
10 Section 1 of this act and the amendments set out in Sections 2 through 21 of this act
11 shall become effective upon this certification.

12 Sec. 29. This act is effective upon ratification. Sections 22, 23, and 24 of
13 this act do not affect appropriations or expenditures that are made by a county or city
14 after the effective date of this act and were agreed to in writing by the county or city
15 before the effective date of this agreement as part of an economic development project.